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09/493,188	01/28/2000	Hidehiro Ishii	P7156-9071	1906

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EXAMINER

PATEL, GAUTAM

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 05/19/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

54

# Office Action Summary

Application No.

09/493,188

Applicant(s)

Ishii et al.

Examiner

Gautam R. Patel

Art Unit

2655



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Apr 21, 2003.

2a) ☒ This action is **FINAL**.

2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 7-46 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 7-46 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6) ☐ Other:

***Response to Amendment***

1. This is in response to amendment filed on 4-21-03 ( Paper # 12).
2. Claims 7-46 remain for examination.
3. Applicant's arguments regarding objection to drawings and objection to claims 15-22 have been fully considered and objection of claims and drawings has been **withdrawn**.

***Claim Rejections - 35 U.S.C. § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 7-46 are rejected under 35 U.S.C. § 102(e) as being anticipated by Aoki et al., US. patent 6,243,220 (hereafter Aoki).

As to claim 7, Aoki discloses the invention as claimed [see Figs. 1-9 especially 1A, 1B, 3B and 4B] including a first recording area, a second recording area and control information indicating different recording modes, comprising:

a first recording area [fig. 2, Audio signal area A & B] on which an audio stream containing audio data is recorded [col. 4, lines 5-10 and col. 15, lines 26-30]; and

a second recording area [fig. 3B & 3C, AUDIO MODE CONTROL SIGNAL area] on which control information [signals b1-b6] is recorded [col. 6, lines 4-44 and col. 15, lines 26-30], the second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17]

wherein the control information includes application information indicating whether or not the audio stream contains audio data with different recording modes [col. 4, lines 35-43 and col. 7, lines 6-16].

NOTE: First recording area and second recording area are located in completely different area. Also an "area discrimination bit" [see figs. 3B and 3C] is used by Aoki to emphasize this point.

5. As to claim 8, Aoki discloses:

the recording modes include monaural audio, multi-channel audio and multiplexed [two-language/multi-language] audio [col. 4, lines 35-43 and col. 7, lines 8-16].

6. As to claim 9, Aoki discloses:

the audio stream contains multiplexed audio data [col. 4, lines 35-43 and col. 7, lines 8-16].

7. As to claim 10, Aoki discloses:

the multiplexed audio data consists of a plurality of audio channels and contains multiple language data in different audio channels [col. 4, lines 35-43 and col. 7, lines 8-16].

8. As to claim 11, Aoki discloses:

the audio stream further contains multi-channel audio data, and  
wherein the application information indicates that the audio stream contains the audio data with different recording modes [col. 4, lines 35-43 and col. 7, lines 8-16]

9. As to claim 12, Aoki discloses:

the control information further includes number information indicating a number of audio channels in the audio stream [col. 5, lines 56 to col 6, line 3]. NOTE: Since each audio channel is identified individually, and where data is recorded, information indicating number of channels for that mode is inherently present. For example stereo 2-channels would have two channels and stereo 4-channels would have four channels. This information is inherently needed to assign the channels and wires necessary to transmit and record the information.

10. As to claim 13, Aoki discloses:

the control information further includes number information specifying one of the recording modes [col. 5, lines 11-40].

11. As to claim 14, Aoki discloses:

the control information further includes rate information [sampling frequency] indicating a bit rate of the audio data [col. 4, lines 44-61 and col. 5, lines 56-63].

12. As to claim 15, Aoki discloses:

a recording device [fig.1A, unit 16; Recording Amplifier] which records audio data on a first recording area [fig. 2, Audio signal area A & B] of the recording medium as an audio stream [col. 4, lines 18-34 and col. 15, lines 26-30]; and

a generating device [fig. 1A, unit 10] which generates control information including application information indicating whether or not the audio stream contains audio data with different recording modes [col. 3, lines 34-53; col. 4, lines 35-61 and col. 7, lines 8-16];

wherein the recording device [fig. 1A, unit 10] records the control information [signals b1-b6] on a second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17] of the recording medium [col. 4, lines 35-61 and col. 7, lines 6-16].

NOTE: First recording area and second recording area are located in completely different area. Also an "area discrimination bit" [see figs. 3B and 3C] is used by Aoki to emphasize this point.

13. As to claims 16-22, they are claims corresponding to claims 8-14 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 8-14 respectively, supra.
14. As to claim 23, Aoki discloses:
  - a first recording area [fig. 2, AUDIO SIGNAL AREA A or B] on which an audio stream containing the audio data is recorded [col. 5, lines 5-10], and a second recording area [fig. 2, SUBCODE AREA A or B] on which control information [signals b1-b6] is recorded [col. 15, lines 26-30], the second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17] wherein the control information includes application information indicating whether or not the audio stream contains audio data with different recording modes [col. 4, lines 35-43;], the system comprising:
    - a reading device [fig. 1B, unit 20] which reads the control information from the second recording area of recording medium [col. 5, lines 11-40], and
    - a controller [fig. 1B, unit 28] which controls the reproduction of the audio data recorded on the first recording area of the medium based on the control information [col. 5, lines 11-40].
15. As to claims 24-25, they are claims corresponding to claims 8-9 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 8-9 respectively, supra.
16. As to claim 26, Aoki discloses:

the multiplexed audio data consists of a plurality of audio channels and contains multiple language data in different audio channels [col. 4, lines 35-43 and col. 7, lines 8-16],

the system further comprising operating device [fig. 1B, units 24 and 28] for selecting one of the multiple language data, wherein the controller controls the reproduction of the audio data such that only the selected [audio selection switch] one of the multiple language data is reproduced [col. 3, lines 15-25 and col. 5, lines 18-40].

17. As to claims 27-30, they are claims corresponding to claims 11-14 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 11-14 respectively, supra.

18. As to claim 31, Aoki discloses:

recording audio data on a first recording area of the recording medium as an audio stream [col. 4, lines 18-34];

generating control information [fig. 1A, unit 10] including application information indicating whether or not the audio stream contains audio data with different recording modes; and

recording the control information on a second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17] of the recording medium [col. 4, lines 35-61 and col. 7, lines 6-16].

19. As to claims 32-38, they are method claims corresponding to claims 8-14 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 8-14 respectively, supra.

20. As to claim 39, drawn to a method corresponding to the apparatus of claim 23, is rejected for similar reasons set forth in the rejection of claim 15, supra.

21. As to claims 40-46, they are method claims corresponding to claims 8-14 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 8-14 respectively, supra.  
Aoki was cited as prior art reference in paper no. 9, mailed 11-20-02.
22. Applicant's arguments filed on 4-21-03 ( Paper # 12) have been fully considered but they are not deemed to be persuasive for the following reasons.
23. In the REMARKS, the Applicant argues as follows:  
A) That: "In, contrast, the application information of the present invention indicates whether or not audio stream contains the audio information with different recording modes. In the example shown in Figure 3, the application information is recorded at the second recording position, .. This recording position is different from the first recording position of the audio information." [page 6, para. 3; REMARKS].  
FIRST: Aoki very clearly indicates different recording modes. In fact Aoki invention is based on that fact and also recording in different areas. For example see col. 4, line 35 "An audio mode information signal input 6 containing and audio mode control signal..." ".  
SECOND: different recording position from first recording position, see rejection of claims 7, 15 etc, above and corresponding explanation. As a matter of fact Aoki even discloses an "AREA DISCRIMINATION BIT" [see fig. 3B/3C]. Nothing could be more clear than this that Aoki indeed teaches and discloses this aspect.

B) That: "Aoki also fails to disclose whether or not the audio information with different recording modes is mixed in one audio stream." [page 6, para. 4; REMARKS].  
*D2*  
*5/17/03* ~~\_\_\_\_\_~~ Aoki clearly indicates ALL different audio modes such as monaural, two/multi-language, stereo .. or a COMBINATION thereof".  
The word combination clearly indicates that all these are either carried as separate



channels are carried within a SINGLE channel. Also carrying different modes on single channel has been well known in the art for a long time.

C) That: "the recording position of the audio data and audio mode in Aoki are different than the present claims." [page 6, para. 4; REMARKS].

FIRST: Careful examination of Aoki and claims does not show this to be different.

SECOND: For argument, if indeed this the case, then that aspect has NOT been claimed or pointed out in argument, where and how this is different.

D) That: "Specifically, Aoki fails to teach and/or disclose a second recording area on which control information is recorded, the second recording area located in a different position from the first recording area." [page 6, para. 4; REMARKS]

See rejection claims 7, 15 etc. above and paragraph 23, section A) above.

24. **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### ***Contact information***

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is (703) 308-7940. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.
- The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

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Art Unit: 2655

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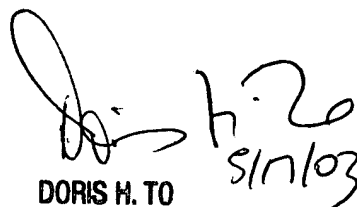
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To can be reached on (703) 305-4827.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4700 or the group Customer Service section whose telephone number is (703) 306-0377.



Gautam R. Patel  
Patent Examiner  
Group Art Unit 2655

May 12, 2003



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